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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,201	11/12/2003	Andrew Bellchambers	06007/39418	6006

4743 7590 03/22/2005

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EXAMINER

TRAN, KHOI H

ART UNIT	PAPER NUMBER
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3651

DATE MAILED: 03/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/706,201

Applicant(s)

BELLCHAMBERS, ANDREW

Examiner

Khoi H Tran

Art Unit

3651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 2,3,5,6 and 8-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4 and 7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

KHOI H. TRAN
PRIMARY EXAMINER

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 01/04 & 5/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Applicant election with traverse of group I, Species I, claims 1, 4, 6, 7, 8-11 in the response filed on 03/04/2005 is acknowledged. The traversal is on the ground(s) that the invention would required common or non-burdensome search and do not comprise independent and distinct inventions. This is not found persuasive because while there may or may not be overlapping searches for each of the defined inventions, the divergent subject matter contained in the nonelected group(s) or invention(s) would warrant significant additional consideration if addressed on the merits. Additionally, Applicant did not submit for the record any formal indications that the different embodiments are obvious variances of one another. The Office remains of the position that the inventions as defined in the previous restriction requirement comprise distinct and independent inventions as discussed in the last Office Action.

Claims 6 and 8-11 have also been withdrawn from consideration for being directed to a non-elected species II. Applicant's remark concerning the signal being directed downwardly from to the load handling position by a signal source that is mounted on the vehicle was not disclosed in the original specification.

The requirement is still deemed proper and hereby made Final.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1, 4, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Lukowski, Jr. et al. 4,678,329.

Lukowski '329 discloses all method steps per claimed invention for laterally aligning a loading machine. The method comprises directing a signal from the machine upwardly towards the load handling position in a plane in which a reference point of the loading implement is movable as the arm is raised about the generally horizontal axis. The method comprises ascertaining whether the machine is correctly laterally positioned so that if the arm is lifted, the loading implement is positioned at the load handling position. The method comprises maneuvering the machine as necessary until the machine is correctly laterally positioned and then raising the loading arm to raise the loading implement towards the load handling position.

In regards to claim 4, the reference point of the loading implement is a laterally central position of the loading implement, which lies generally along an elongate axis of the loading arm.

In regards to claim 7, Lukowski '329 loading arm includes a plurality of relatively telescopic sections. The method includes extending the arm to move the loading implement axially of the arm towards the load handling position.

4. Claims 1, 4, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Acuff 5,208,753

Acuff '753 discloses all method steps per claimed invention for laterally aligning a loading machine. The method comprises directing a signal from the machine upwardly towards the load handling position in a plane in which a reference point of the loading implement is movable as the arm is raised about the generally horizontal axis. The method comprises ascertaining whether the machine is correctly laterally positioned so that if the arm is lifted, the loading implement is positioned at the load handling position. The method comprises maneuvering the machine as necessary until the machine is correctly laterally positioned and then raising the loading arm to raise the loading implement towards the load handling position.

In regards to claim 4, the reference point of the loading implement is a laterally central position of the loading implement, which lies generally along an elongate axis of the loading arm.

In regards to claim 7, Acuff '753 loading arm includes a plurality of relatively telescopic sections. The method includes extending the arm to move the loading implement axially of the arm towards the load handling position.

5. Claims 1, 4, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Hansen Re 29,025.

Hansen '025 discloses all method steps per claimed invention for laterally aligning a loading machine. The method comprises directing a signal from the machine upwardly towards the load handling position in a plane in which a reference point of the loading implement is movable as the arm is raised about the generally horizontal axis. The method comprises ascertaining whether the machine is correctly laterally positioned so that if the arm is lifted, the loading implement is positioned at the load handling position. The method comprises maneuvering the machine as necessary until the machine is correctly laterally positioned and then raising the loading arm to raise the loading implement towards the load handling position.

In regards to claim 4, the reference point of the loading implement is a laterally central position of the loading implement, which lies generally along an elongate axis of the loading arm.

In regards to claim 7, Hansen '025 loading arm includes a plurality of relatively telescopic sections. The method includes extending the arm to move the loading implement axially of the arm towards the load handling position.

6. Claims 1, 4, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Dammeyer et al. 5,586,620

Dammeyer '620 discloses all method steps per claimed invention for laterally aligning a loading machine. The method comprises directing a signal from the machine upwardly towards the load handling position in a plane in which a reference point of the loading implement is movable as the arm is raised about the generally horizontal axis. The method comprises ascertaining whether the machine is correctly laterally

positioned so that if the arm is lifted, the loading implement is positioned at the load handling position. The method comprises maneuvering the machine as necessary until the machine is correctly laterally positioned and then raising the loading arm to raise the loading implement towards the load handling position.

In regards to claim 4, the reference point of the loading implement is a laterally central position of the loading implement, which lies generally along an elongate axis of the loading arm.

In regards to claim 7, Dammeyer '620 loading arm includes a plurality of relatively telescopic sections. The method includes extending the arm to move the loading implement axially of the arm towards the load handling position.

7. Claims 1, 4, and 7 are rejected under 35 U.S.C. 102(e) as being anticipated by Kokura 6,795,187.

Kokura '187 discloses all method steps per claimed invention for laterally aligning a loading machine. The method comprises directing a signal from the machine upwardly towards the load handling position in a plane in which a reference point of the loading implement is movable as the arm is raised about the generally horizontal axis. The method comprises ascertaining whether the machine is correctly laterally positioned so that if the arm is lifted, the loading implement is positioned at the load handling position. The method comprises maneuvering the machine as necessary until the machine is correctly laterally positioned and then raising the loading arm to raise the loading implement towards the load handling position.

In regards to claim 4, the reference point of the loading implement is a laterally central position of the loading implement, which lies generally along an elongate axis of the loading arm.

In regards to claim 7, Kokura '187 loading arm includes a plurality of relatively telescopic sections. The method includes extending the arm to move the loading implement axially of the arm towards the load handling position.

Conclusion

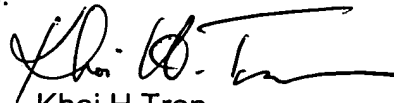
8. Additional references made of record and not relied upon are considered to be of interest to applicant's disclosure: see attached USPTO Form 892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoi H Tran whose telephone number is (703) 308-1113. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on (703) 308-1113. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3651

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Khoi H Tran', with a stylized flourish at the end.

Khoi H Tran
Primary Examiner
Art Unit 3651

KHT
03/16/2005